

EXHIBIT 7

A.J.P. AND A.M.P. MINORS, ET AL vs COUNTY OF SAN BERNARDINO, ET AL
Deputy Anthony Alcala on 12/28/2023

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

A.J.P. and A.M.P., minors,)	Case No. 5:22-cv-01291-
by and through their guardian)	SSS-SHK
ad litem Cynthia Nunez,)	
individually and as successor)	
in interest to Albert Perez,)	
deceased; and PATRICIA RUIZ,)	
individually)	
)	
Plaintiffs,)	
)	
vs.)	
)	
COUNTY OF SAN BERNARDINO; and)	
DOES 1-10, inclusive,)	
)	
Defendants.)	
_____)	

DEPOSITION OF DEPUTY ANTHONY ALCALA
APPEARING REMOTELY FROM SAN BERNARDINO, CALIFORNIA
THURSDAY, DECEMBER 28, 2023

REPORTED BY:

JOHANNA MANGUAL LEDESMA, RPR, CSR 6951

APPEARING REMOTELY FROM VENTURA COUNTY, CALIFORNIA

1 6:45 p.m.

2 Q. I appreciate the translation from military time.

3 Thank you.

4 And what was the nature of that call from your
5 sergeant?

6 A. It was through an e-mail sort of notification.
7 And exactly what was the information given, I do not
8 recall, but it was a barricaded subject with a firearm
9 inside a garage with the address, the city, and that was
10 the information I received.

11 Q. And in the time from when you first got the
12 e-mail notification from your sergeant and the time that
13 you arrived on scene, did you learn any additional
14 information about the incident?

15 A. Not until I arrived on scene.

16 Q. Okay. So did you have any information that
17 Mr. Perez was under the influence of anything?

18 MS. ANDERSEN: Objection to the extent that
19 calls for speculation, but you can answer.

20 THE WITNESS: No. No information was provided
21 to me regarding that.

22 Q. BY MS. LEAP: And did you have any information
23 that anyone had been physically injured related to this
24 call?

25 A. I did not have any information on that.

1 A. It was on the street just out, just outside of
2 the incident location.

3 Q. Okay. And the armed plate carrier vest -- did I
4 get that right?

5 A. Yes.

6 Q. Is that a vest that you wear on your person or
7 is it like a shield that you hold?

8 A. No. It's a vest that I put on, on my person.

9 Q. Okay. And is that a bullet-proof vest?

10 A. Yes.

11 Q. Okay. And did you have any information where
12 the gun was?

13 A. Yes.

14 Q. And what was the information that you had?

15 A. That Mr. Perez was holding the gun.

16 Q. In his hand?

17 A. Yes, in his hand.

18 Q. Did you have information as to which hand?

19 A. I do not recall.

20 Q. Okay. So after you spoke with the Watch
21 Commander and the reporting parties, was it then that you
22 went over to the garage?

23 A. Yes.

24 Q. And were there other patrol deputies already on
25 scene when you arrived?

1 Q. Do you know how long those deputies had been
2 there prior to your arrival?

3 A. I do not.

4 Q. Okay. And once you arrived at the garage, did
5 you receive any additional information that Mr. Perez had
6 pointed the gun at anyone including the deputies?

7 A. No information that was provided.

8 Q. During that same time period, did you have any
9 information that Mr. Perez had physically injured anyone
10 such that they needed medical attention?

11 A. No. To my understanding -- sorry. To my
12 understanding, he did not point the gun at anybody or
13 injure anybody prior to my arrival.

14 Q. Okay. Did you have any specific information as
15 to whether the gun was loaded or not?

16 A. No, I did not have any information on that.

17 Q. Did you have any information as to whether
18 Mr. Perez had a criminal history or not?

19 A. No, I had no information on that.

20 Q. And did the SED deputies arrive at some point
21 and switch out positions with those initially responding
22 patrol deputies?

23 A. Yes, they did.

24 Q. And if you can recall, approximately how long
25 were you on scene at the garage before the SED deputies

1 A. And that's when the SED got there?

2 Q. Right. So you estimated that you were with the
3 initially responding patrol deputies for an hour. And
4 then I'm curious how long you were there from after the
5 SED deputies responded.

6 A. To my recollection, it was 10 to 15 minutes.

7 Q. Okay. So would you estimate that you were at
8 the garage for about an hour and 15 minutes or so before
9 the shooting?

10 A. Yes, approximately.

11 Q. And in that hour and 15 minutes, did you ever
12 see Mr. Perez point the gun at any of the officers?

13 A. No, I did not.

14 Q. And during that hour and 15 minutes, did you
15 ever see Mr. Perez fire the gun at anyone or anything?

16 A. No, I did not.

17 Q. During that hour and 15 minutes, did you ever
18 see Mr. Perez raise the weapon from where it was in his
19 hand at the direction of anyone?

20 A. I did not see him raise the weapon, no.

21 Q. Did you hear him verbally threaten to harm any
22 of the deputies during that time period?

23 A. No, I did not.

24 Q. Did you give Mr. Perez any orders to put the gun
25 down?

1 A. I did.

2 Q. And at some point did you learn that Mr. Perez
3 did put the gun down?

4 A. Yes.

5 Q. And how did you learn that?

6 A. Deputy Stone relayed that information based on
7 his observations of watching Mr. Perez put the gun down.
8 So he relayed that to myself and Olivas that were on the
9 same side of the garage together.

10 Q. Okay. Did he relay that, if you know, over the
11 radio or did he just tell you verbally in person?

12 A. I do not know if he relayed that on the radio or
13 not.

14 Q. So you heard him just from him verbally telling
15 you?

16 A. He did say it out loud, yes.

17 Q. Okay. And did you consider the active
18 putting-the-gun-on-the-ground an act of compliance?

19 A. Initially, yes.

20 Q. And did you have an understanding as to where he
21 placed the gun, Mr. Perez placed the gun in relation to
22 the chair he was sitting on?

23 A. I did not see where he put the gun down, no.

24 Q. Okay. Did you receive any information from
25 Mr. -- from Deputy Stone as to where the gun was when he

1 with that. Then I just continued to speak to him, you
2 know, reassuring him that, you know, we did not want any
3 violence. We wanted to end the situation peacefully.

4 You know, I tried to encourage him to stand up,
5 walk, walk towards us so we can, so the SWAT operators
6 could detain him, handcuff him and in hopes that he would
7 continue to want to or start to talk to me and we can talk
8 in person without any weapons or violence. So that was
9 what I was working towards as far as negotiating with him,
10 just trying to get him to surrender peacefully and
11 encourage him to do that.

12 Q. So did the communications that you had with
13 Mr. Perez include commands that he stand up?

14 A. I did -- I did ask him. I did encourage him to
15 stand up and walk towards us. Yes.

16 Q. Okay. And at some point do you know if
17 Mr. Perez did stand up from the chair?

18 A. He did.

19 Q. And did you consider that an act of compliance?

20 A. Yes.

21 MS. LEAP: I think this might be a good point to
22 take a break if that works for everyone. We've been going
23 for about an hour.

24 MS. ANDERSEN: Yes.

25 MS. LEAP: Okay. We can go off the record.

1 was attempting to negotiate with Mr. Perez for that hour,
2 hour and 15 before SED got there. Like I said, I went
3 over to the left side of the garage for approximately
4 twice which was the same side as Deputy Mata was on.

5 Q. Okay. Thank you.

6 And how about after the SED deputies arrived,
7 did you go over to the left-hand side after their arrival
8 as well?

9 A. No. I stayed on the right side.

10 Q. Okay. And what portion of Mr. Perez were you
11 able to see when you were on the right-hand side of the
12 garage?

13 A. The same, his upper chest to his head.

14 Q. Okay. Just so I make sure I am understanding
15 correctly, you stayed on the right-hand side for the
16 entire time that the SED deputies were on the scene until
17 the time of the shooting at least?

18 A. Yes.

19 Q. Okay. And while you were on the right-hand
20 side, you could see basically his chest up? Is that what
21 you said?

22 A. Yes, portions of his shoulders and his arms, but
23 from the upper torso to his head.

24 Q. Okay. Were you able to see his hands?

25 A. Periodically when he rose them up, yes.

1 Q. And when he rose them up, did he have anything
2 in his hands --

3 A. No.

4 Q. -- that you could see I mean?

5 A. No, he did not.

6 Q. And before our break, we were at the point in
7 time where Mr. Perez stood up from the chair. And were
8 there additional commands given to Mr. Perez once he stood
9 up?

10 A. Yes.

11 Q. And were you still the primary or the only
12 deputy giving him commands at that point?

13 A. I was primary until he got to a certain point
14 after he stood up. Once he started to comply with walking
15 forward towards the SWAT operators on the left side, the
16 west side of the garage, Deputy Gaytan took over giving
17 him comprehension commands.

18 Q. Okay. Prior to him beginning to walk forward,
19 did you give him a command to walk forward?

20 A. Yes.

21 Q. Okay. And did he start walking forward?

22 A. Yes.

23 Q. And did you also consider that act of walking
24 forward an act of compliance?

25 A. Yes.

1 Q. And when he walked forward, where was it that he
2 walked in relation to the pool table, for example? And I
3 can bring up that photo if it would be easier for you to
4 describe.

5 A. So where he was sitting down at the head of the
6 pool table, he walked towards -- he walked in the
7 direction of his right side to which would be towards the
8 west side of the garage. That's where he walked which
9 were the instructions I was giving him.

10 Q. Okay. So if, from your vantage point looking
11 into the garage, he was walking on the left-hand side of
12 the pool table?

13 A. Yes.

14 Q. Okay. But it was his, his left side would also
15 have been on the side of the pool table, I believe?

16 A. It was his, it was his right because if he was
17 looking out, so he went off to his right.

18 Q. Right. I think I may be getting things a little
19 bit too confusing with the left and the right, but he
20 walked in the direction of the right, of his right, but
21 his left arm would be the arm closer to the pool table; is
22 that correct?

23 A. Yes.

24 Q. Okay. Thank you. I just want to make sure we
25 had the same image in our mind.

1 And when he was walking following your

2 instructions, could you see his hands at that point?

3 A. Yes.

4 Q. And could you see if there was anything in his
5 hands?

6 A. Yes. There was nothing in his hands.

7 Q. Okay. Did you see him reach for anything in his
8 pockets?

9 A. Not that I recall.

10 Q. And was he walking slowly or how would you
11 describe his pace as he was walking?

12 A. Slowly would be a good definition.

13 Q. And did you give him a command to stop at some
14 point?

15 A. Yes.

16 Q. And I think I'll pull up the exhibit again.

17 (Screen sharing.)

18 Q. BY MS. LEAP: And so this was Exhibit Number 2.
19 Can you all see that okay?

20 A. Yes.

21 Q. And can you identify in this image where he was
22 when you told him to stop?

23 A. I would say where that black glove's at on the
24 ground, probably right on top of it, maybe, maybe a step
25 in front of that black glove, but about right there.

1 Q. Okay. So maybe between the black glove and the
2 front end of the pool table?

3 A. Yes.

4 Q. Okay. And in case I didn't say this, this is
5 Exhibit 2. Here is Exhibit 1.

6 (Screen sharing.)

7 Q. BY MS. LEAP: You can't see the black glove in
8 this image, but does this image provide any -- is this
9 image helpful in identifying where Mr. Perez was when you
10 told him to stop or is the other one more helpful?

11 A. The other one. The other one would be more
12 helpful.

13 Q. Okay. Then we'll stick with Exhibit 2. And
14 when he -- when you told him to stop, did he comply with
15 that command as well?

16 A. Yes.

17 Q. Okay. And approximately how many feet was
18 Mr. Perez from the chair that he was sitting at when he
19 stopped?

20 A. I would say 5 to 7.

21 Q. Okay. Do you recall in your statement that you
22 estimated that he was about 8 feet away from the chair?

23 A. I don't recall that, but it's possible.

24 Q. Okay. Would it be helpful to refresh your
25 recollection if I played a portion of your statement?

1 Q. BY MS. LEAP: Okay. So did you hear yourself
2 say that he had come 8 feet, 9 feet from the chair?

3 A. Yes. 8 to 9 feet, yes, that's what I said.
4 Yes.

5 Q. Okay. Is it your testimony today that he was 5
6 to 7 feet from the chair?

7 A. After looking at the photo, it gives me a better
8 estimate of distance, so I would say between 5 to 7.
9 During the interview, it was early in the morning right
10 after we got done with that scene so --

11 Q. Understood. So if he was about 5 to 7 feet away
12 from the chair and identified, you identified him as being
13 close to where that black glove was on the ground and the
14 front of the pool table in Exhibit 2, would you be able to
15 estimate how far Mr. Perez was from the deputies on the
16 side of the garage that you were on, on the right-hand
17 side?

18 A. He was probably about, about the same, about 5
19 to 7 feet away from us, from where we were on the right
20 side of the garage.

21 Q. Okay. And do you have an estimate as to how
22 long he was in a stopped position at that point where you
23 identified him by the pool table?

24 A. From when he stopped until -- are you asking
25 from when he stopped until the shooting occurred?

1 Q. Sure.

2 A. I would say from the time he stopped to when the
3 less lethal rounds were deployed, I would say less than a
4 minute. And then when the lethal rounds were deployed,
5 that's probably just around the same time, about a minute,
6 a minute, couple of seconds if that.

7 Q. Okay. And were you still in that same position
8 near the deputies and near the, sort of the passenger side
9 of that silver vehicle when Mr. Perez stopped?

10 A. When he stopped, yes.

11 Q. Okay. So at this point when Mr. Perez had
12 stopped, would you agree that he'd made several acts of
13 compliance including dropping the gun, getting up,
14 walking, stopping?

15 A. Yes.

16 Q. And did sergeant -- or strike that.
17 Would you identify any other acts of compliance
18 that I did not list?

19 A. No. That's -- that pretty much summarizes it.

20 Q. Did Sergeant Gaytan begin to give Mr. Perez some
21 commands at some point?

22 A. Yes.

23 Q. Was that when Mr. Perez stopped?

24 A. Yes.

25 Q. Okay. And could you hear Sergeant Gaytan's

1 commands?

2 A. Yes.

3 Q. And can you remind me if he was on the same side
4 of the garage as you were or was he on the other side of
5 the garage?

6 A. The other side.

7 Q. Okay. And did it look like at some point
8 Mr. Perez took a step back with his left foot?

9 A. Yes, it did.

10 Q. And did it appear that he started to turn to his
11 left at that point as well?

12 A. Simultaneously, yes.

13 Q. Okay. And is that when you saw that the
14 40 millimeter was fired?

15 A. Yes. I heard it more than I saw it, yes.

16 Q. Okay. And the 40 millimeter, was that -- do you
17 know if that was fired from your side of the garage or
18 from the other side of the garage?

19 A. From my side of the garage.

20 Q. Okay. So that would have been Deputy Stone?

21 A. Yes.

22 Q. Okay. And did you see that the 40 millimeter
23 round struck him, Mr. Perez?

24 A. I believe it did because after it was deployed,
25 when I heard the 40 millimeter deployment, Mr. Perez kind

1 of bent over to his left side which, based on my training
2 and experience, indicated that it did impact.

3 Q. Okay. And did you see if he, if Mr. Perez
4 continued to turn after the 40 millimeter appeared to
5 strike him?

6 A. I do not know because I moved out of the way for
7 cover on the next driveway over.

8 Q. Okay. Could you hear the second less -- sorry.
9 Strike that.

10 Could you hear a second less lethal round fired?

11 A. I did.

12 Q. And could you approximate about how long after
13 the first less lethal round was fired, the second one was
14 fired?

15 A. I couldn't put a timeline on it, but it was very
16 fast. It was very quickly after the first deployment.

17 Q. Okay. Did you hear any other less lethal rounds
18 fired?

19 A. In total, I believe I heard two to three total
20 of the 40 millimeter less lethal rounds deployed.

21 Q. Okay. And in your training and experience, do
22 less lethal rounds generally sound different from lethal
23 rounds?

24 A. Yes.

25 Q. Can you describe how they sound different from

1 each other?

2 A. I would say the 40 millimeter deployment in my
3 experience, my training, has a little bit more of a lower
4 base if I were to call it. And a lethal round would be
5 more, more of a pop sound than a base.

6 Q. Okay. And you estimated that about two to three
7 less lethal rounds were fired, you believe.

8 A. Yes. That's what I believe I heard.

9 Q. Okay. Did you hear any lethal rounds being
10 fired?

11 A. Yes. From what I could hear taking cover at the
12 next driveway, yes.

13 Q. And excuse me. Can you estimate about how long
14 after the less lethal rounds you heard the lethal rounds
15 being fired?

16 A. Again, it was very quickly, within a minute.

17 Q. Within a minute you said?

18 A. Yes.

19 Q. Okay. Was it within seconds?

20 A. Yes. I would say within, between probably close
21 to 10 to 30 seconds. Very quickly.

22 Q. Just so that I'm understanding correctly, are
23 you estimating that there were from your memory 10 to 30
24 seconds between the less lethal shots being fired and the
25 lethal shots being fired or all of the shots together? I

1 just want to make sure I understand.

2 A. No. Thank you. I believe there was close to, I
3 would say close to 30 seconds for the whole shooting
4 entirely with the less lethal and lethal rounds that I
5 heard. And then within 5 to 10 seconds, between the less
6 lethal and lethal rounds.

7 Q. Okay. Could you hear how many lethal rounds
8 were fired?

9 A. I do not recall, no.

10 Q. Okay. At some point could you hear the command
11 to cease-fire?

12 A. Yes.

13 Q. Do you know who gave that command?

14 A. Sergeant Gaytan.

15 Q. Can you estimate how long after the initial
16 lethal shots were fired until you heard the cease-fire
17 command given?

18 A. From the last lethal round you're asking?

19 Q. The initial lethal round.

20 A. I couldn't estimate that. Again, I was focused
21 on taking cover. But from the last lethal round, it was,
22 it was right away.

23 Q. Okay. So did you hear any lethal rounds fired
24 after the cease-fire command?

25 A. No.

1 Q. And just so I'm clear, after the first less
2 lethal round was fired, you did not see any additional
3 rounds fired because you took cover on the side of the
4 house?

5 A. Correct. In the next driveway over, yes.

6 Q. Okay. But you could still hear what was going
7 on in the garage?

8 A. Yes.

9 Q. Okay. Prior to Mr. Perez taking that step back
10 with his left foot when he was, I guess, after he was
11 stopped at the pool table, did anyone tell him to turn
12 around?

13 A. I believe Sergeant Gaytan told him to turn
14 around and get on his knees.

15 Q. Okay. And prior to Mr. Perez taking that step
16 back with his left foot, did you hear anyone give a
17 warning that less lethal would be used?

18 A. I did not hear any of those commands.

19 Q. Okay. Prior to Mr. Perez taking that step back
20 with his left foot, did you hear anyone give a warning
21 that lethal force would be used?

22 A. I did not.

23 Q. Have you ever been in a situation where someone
24 is struck by a 40 millimeter round?

25 A. No, not personally.

1 Q. Okay. I'm just going to review my notes
2 quickly.

3 If Mr. Perez had been asked to turn around and
4 did so, would you also view that as an act of compliance?

5 MS. ANDERSEN: Objection. Calls for speculation
6 and also incomplete hypothetical, but you can answer.

7 THE WITNESS: If he did follow that instruction
8 to turn around, I would -- I would feel that was a sense
9 of compliance from Mr. Perez, yes.

10 MS. LEAP: Okay. Those are all the questions I
11 have today. I don't know if you have any follow up,
12 Kayleigh.

13 MS. ANDERSEN: No, I don't.

14 MS. LEAP: Okay.

15 Madam Court Reporter, I don't know if you need
16 any spellings or clarifications?

17 THE REPORTER: Can we go off the record? I
18 don't need anything.

19 MS. ANDERSEN: Can I order a copy of the
20 transcript, please?

21 THE REPORTER: And may I get Officer Alcala's
22 e-mail address so I can send him an electric transcript to
23 review? We can do that off the record.

24 MS. ANDERSEN: Yeah, we'll do that off the
25 record.

A.J.P. AND A.M.P. MINORS, ET AL vs COUNTY OF SAN BERNARDINO, ET AL

Deputy Anthony Alcala on 12/28/2023

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1 STATE OF _____)
2 COUNTY OF _____) SS.
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6

7 I, DEPUTY ANTHONY ALCALA, do hereby declare
8 under penalty of perjury that I have read the foregoing
9 transcript; that I have made any corrections, additions or
10 deletions that I was desirous of making; that the
11 foregoing is a true and correct transcript of my testimony
12 contained therein.

13 EXECUTED this _____ day of _____, _____,
14 at _____, _____.
15 (City) (State)
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23 _____
24 DEPUTY ANTHONY ALCALA
25